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New Requirements for Meat and Seafood Exports (Circular 25)

Report Categories:

Agricultural Situation

Livestock and Products

Fishery Products

Dairy and Products

Sanitary/Phytosanitary/Food Safety

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Report Highlights:

On May 19, 2010, Post was notified by local industry of the publication of Circular 25 by the Ministry of Agriculture and Rural Development (MARD), which requires foreign governments and exporters to be approved by MARD's National Agro-Forestry Fisheries Quality Assurance Department (NAFIQAD) before being allowed to unload their exported product at any Vietnamese port. MARD signed the Circular on April 8, 2010.

After being notified of the Circular, the United States joined other like-minded countries to request MARD/NAFIQAD to postpone the original July 1, 2010, implementation date in order to allow sufficient time to clarify technical and procedural questions about the Circular. In addition, MARD/NAFIQAD was encouraged to notify the Circular to the World Trade Organization (WTO) in order to afford other WTO members the opportunity to review and comment on the Circular.

On June 24, 2010, MARD extended the Circular's implementation date to September 1, 2010, and on June 30, 2010, notified the Circular to the WTO. Technical clarification of Appendices 1-3 is still ongoing.

An unofficial English translation of Circular 25 follows.

Appendices have been omitted from this report as they are still under discussion.

General Information: Unofficial Translation of Circular 25

Unofficial translation

**MINISTRY OF
AGRICULTURE AND RURAL DEVELOPMENT**

**SOCIALIST REPUBLIC
OF VIET NAM
Independence - Freedom –
Happiness**

No. 25/2010/TT-BNNPTNT

Hanoi, April 8, 2010

CIRCULAR

**GUIDING ON THE FOOD HYGIENE AND SAFETY CONTROL FOR IMPORTED
FOODSTUFFS OF ANIMAL ORIGIN**

Pursuant to the Decree No. 01/2008/ND-CP of January 3, 2008 defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development; Decree No. 75/2009/ND-CP of September 10, 2009 amending Article 3 of the Decree No. 01/2008/ND-CP of January 3, 2008 defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the Ordinance No. 12/2003/PL-UBTVQH of July 26, 2003 by Vietnamese Standing Committee of National Assembly on Food Hygiene and Safety.

Pursuant to the Decree No. 163/2004/ND-CP of September 7, 2004 detailing some provisions of the Ordinance on Food Hygiene and Safety.

Pursuant to the Decree No. 79/2008/ND-CP of July 18, 2008 defining system of management, inspection and test of food hygiene and safety;

Pursuant to the Decree No. 33/2005/ND-CP of March 15, 2005 detailing some provisions of the Veterinary Ordinance; Decree No. 119/2008/ND-CP of November 28, 2008 amending

some articles of the Decree No. 33/2005/ND-CP of March 15, 2005 detailing some provisions of the Veterinary Ordinance;

Hereafter is the guide to food hygiene and safety control for imported products of animal origin under the management of the Ministry of Agriculture and Rural Development.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of application

1. This Circular guides the food hygiene and safety (FHS) control for imported foodstuffs of animal origin under the management of the Ministry of Agriculture and Rural Development, including products of terrestrial animal for human consumption; products of aquatic animals for human consumption; responsibilities and jurisdictions of parties concerned.

2. This Circular shall not regulate the quarantine of animals and animal products.

Article 2. Objects of application

This Circular applies to native and foreign individuals and organizations operating business of imported products of animal origin for human consumption.

Article 3. Imported products of animal origin not subject to food hygiene and safety control

1. Foodstuffs for personal use, as gift, diplomatic bags, consular bags according to the regulations in force;

2. Foodstuffs in transit;

3. Foodstuffs stored in bonded warehouses.

Article 4. Definition

For the purpose of this Circular, the following definitions shall apply:

1. *Food hygiene and safety (FHS)* means conditions and measures necessary to ensure that the food is not harmful to consumers' health and life.

2. *Inspection of food hygiene and safety control system* means inspection of legislation system, organization structure and competence of FHS control agency of exporting country.

3. *Imported consignment* means an amount of products registered for one official inspection.

4. *Inspected consignment* means an amount of the same-type products processed by the same food business operator (FBO) and registered for one official inspection.

Article 5. Requirements for imported products

1. Imported products must be processed by a food business operator (FBO) approved by Vietnamese Competent Authorities to be fully compliant with Vietnamese food hygiene and safety regulations;

2. Each consignment of imported products must be accompanied by a health certificate issued by Competent Authorities of the exporting country (unless fish and fishery products captured by foreign fishing vessels, processed at sea and directly sold in Vietnam);

3. Imported products shall be further processed or placed on the market in Vietnam only if they are inspected at border inspection posts or bonded warehouses and granted a health certificate.

Article 6. Principles of inspection

1. Inspections to exporting countries: Inspection on food hygiene and safety control system of exporting countries and food hygiene and safety conditions of FBOs registered to export products to Vietnam;

2. Inspections to imported products: All imported products of animal origin shall undergo document checks, physical examination and sensory evaluation. Sampling shall be applied in compliance with Article 14 of this Circular.

Article 7. Legal basis for inspection

1. Relevant Vietnam legislations and national technical regulations for each type of manufacturer, type of product or product group registered to be imported into Vietnam.

2. International treaties and bilateral arrangements with exporting countries that Vietnam has concluded or approved.

Article 8. Inspecting and supervising bodies

1. Inspecting bodies to exporting countries: The National Agro-Forestry-Fisheries Quality Assurance in co-ordination with the Department of Animal Health and other relevant agencies.

2. Inspecting bodies to border inspection posts: Units under or authorized by the Department of Animal Health.

3. Inspecting bodies to bonded warehouses and issuing health certificate:

a. Products of terrestrial animal origin: units under or authorized by the Department of Animal Health.

b. Products of aquatic animal origin: units under or authorized by the National Agro-Forestry-Fisheries Quality Assurance Department.

4. Inspecting and supervising bodies to products placed on the market:

a. Sub-Departments of Animal Health of provinces/cities under Central Authority conduct inspection and supervision to imported products of terrestrial animal origin in accordance with the supervising programs stipulated in the Circular No. 05/2010/TT-BNNPTNT of January 22, 2010 by the Ministry of Agriculture and Rural Development guiding the FHS inspection and supervision of agro-products prior to being placed on the market.

b. National Agro-Forestry-Fisheries Quality Assurance Sub-Departments of provinces/cities under Central Authority or units in charge of agro-forestry-fishery quality assurance under the Provincial Department of Agriculture and Rural Development conduct FHS inspection and supervision to imported products of aquatic animal origin in accordance with the supervising programs stipulated in the Circular 56/2009/TT-BNNPTNT of September 7, 2009 by the Ministry of Agriculture and Rural Development guiding the FHS inspection and supervision of fishery products prior to being placed on the market.

Chapter II

FOOD HYGIENE AND SAFETY INSPECTION TO EXPORTING COUNTRIES

Article 9. Registration documents

Competent authorities of exporting countries provide the National Agro-Forestry-Fisheries Quality Assurance Department with the registration documents, including:

- List of food business operators registering to export products to Vietnam by the form in the enclosed Appendix 1;
- Information on FHS control system and competencies of FHS Competent Authorities of exporting countries by the form in the enclosed Appendix 2;
- Summary on FHS conditions of the food business operator by the form in the enclosed Appendix 3.

Article 10. Registration document verification

Within 30 working days of receipt of completed registration document, the National

Agro-Forestry-Fisheries Quality Assurance Department, together with the Department of Animal Health verify registration document, inform Competent Authorities of the exporting country of the verification result and inspection plan to the exporting country if necessary.

Article 11. Inspection items

1. Legal system on food hygiene and safety control;
2. Competencies of FHS Competent Authorities of exporting countries;
3. FHS conditions of FBOs registering to export to Vietnam.

Article 12. Type of inspection

1. Initial inspection to assess exporting countries' FHS control system and their FBOs' hygiene conditions for approval.
2. Follow-up inspection to check the on going performance of FHS control system by exporting countries and of FHS conditions by approved FBOs.

Article 13. Inspection reports and communication on list of FBOs approved for export to Vietnam

1. When on-site inspection to the exporting country is considered unnecessary, the National Agro-Forestry-Fisheries Quality Assurance Department publishes the result of registration document checks, together with its list of FBO approved for export to Vietnam.
2. When on-site inspection to the exporting countries is considered necessary, within 30 working days after the inspection, the National Agro-Forestry-Fisheries Quality Assurance Department publishes the on-site inspection report, its list of FBOs approved for export to Vietnam.

When inspection result is not satisfactory, the National Agro-Forestry-Fisheries Quality Assurance Department informs Competent Authorities of exporting countries of the non-compliance.

3. In case of request for additional FBOs approved to export to Vietnam, the Competent Authority of the exporting country submits additional registration document as described in the Article 9 of the Circular. As the result of document check and/or on-site inspection to the exporting country, additional FBOs shall be approved to export to Vietnam or not.

Chapter III

FOOD HYGIENE AND SAFETY INSPECTION TO IMPORTED PRODUCTS

Article 14. Inspection procedures

1. For products of aquatic animal origin: in compliance with the Decision No. 118/2008/QD-BNN of December 11, 2008 of the Ministry of Agriculture and Rural Development promulgating the Regulation on the official inspection and certification of food hygiene and safety of fishery commodities; Circular No. 78/2009/TT-BNNPTNT of December 10, 2009 of the Ministry of Agriculture and Rural Development regulating inspection and sampling for analysis of aquatic animal products and other relevant regulations.
2. For products of terrestrial animal origin: in compliance with the Decision No. 86/2005/QD-BNN of December 26, 2005 of the Ministry of Agriculture and Rural Development promulgating the quarantine forms of animal and animal products and veterinary hygiene inspection; Decision No. 15/2006/QD-BNN of March 8, 2006 of the Ministry of Agriculture and Rural Development promulgating the Regulation on the order and procedures of quarantine of animal and animal products and veterinary hygiene inspection; Circular No. 11/2009/TT-BNN of March 4, 2009 of the Ministry of Agriculture and Rural Development amending several specific provisions on the order and procedures of quarantine of animal and animal products and veterinary hygiene inspection promulgated by the Decision No. 15/2006/QD-BNN of March 8, 2006 of the Ministry of Agriculture and Rural Development and other relevant regulations.

Article 15. Inspection and supervision to imported products placed on the market

1. Check data of products' origin;
2. Check conditions of storage, dividing up, packing and distribution on the market.
3. Take samples for analysis at authorized laboratories when non-compliance is detected or suspected or on request of competent authorities.

Chapter IV

ACTIONS TO NON-COMPLIANCE

Article 16. To non-compliant products

1. Depending on the seriousness of non-compliance, appropriate actions shall be applied to products: being re-dispatched or destroyed.

2. Competent Authority of the exporting country shall be required to investigate cause of non-compliance and apply corrective actions.

Article 17. To non-compliant FBOs

1. Import suspension from non-compliant FBOs shall be applied to the FBOs where the result of follow-up inspection shows that the FBO's food hygiene conditions have not fully met Vietnamese regulations.

2. The import suspension shall be lifted providing that the result of later follow-up inspection reflects the FBO's compliance with Vietnamese regulations on food hygiene and safety.

Article 18. To non-compliant exporting countries

1. Import suspension shall be applied to an exporting country when the result of follow-up inspection shows that the FHS control system of the country has not fully met Vietnamese regulations.

2. The import suspension shall be lifted providing that the result of later follow-up inspection reflects that the FHS control system of the exporting country has fully met Vietnamese regulations.

Chapter V

CHARGES, FEES AND BUDGET

Article 19. Charges and fees

1. Inspecting bodies to border inspection posts are allowed to collect charges and fees for FHS inspection of imported products in compliance with regulations in force laid down by the Ministry of Finance.

2. Inspecting bodies to border inspection posts / bonded warehouses which issue health certificate are allowed to collect fees of FHS inspection and fees of FHS certification for imported products in compliance with regulations in force laid down by the Ministry of Finance.

Article 20. Budget

1. Budget for inspections to exporting countries is covered by the State Budget. The National Agro-Forestry-Fisheries Quality Assurance in co-ordination with the Department of Animal Health set up and submit annual inspection plan to exporting countries and respective estimated expenses for approval.

2. Budget for inspection and supervision to imported products placed on the market is

covered by the State Budget. Inspecting and supervising bodies set up and submit annual inspection and supervision plan and respective estimated expenses for approval.

Chapter VI

ORGANIZATION OF IMPLEMENTATION

Article 21. National Agro-Forestry-Fisheries Quality Assurance Department (NAFIQAD)

1. To be contact point to receive Registration documents from Competent Authorities of exporting countries relating FHS conditions of FBOs registering to export to Vietnam; communicate to adopt annual inspection plan with Competent Authorities of exporting countries and submit the Minister for establishment of inspection mission to exporting countries;
2. To publish lists of FBOs approved to export products of animal origin to Vietnam; FBOs suspended to export to Vietnam; communicate notifications on non-compliance cases, request to investigate non-compliance causes and establish corrective actions to Competent Authorities of exporting countries;
3. To co-ordinate with the Department of Animal Health to build up Pre-mission questionnaires for Competent Authorities of exporting countries;
4. To set up inspection plans and programs to exporting countries to access their FHS control system and FBOs of products of animal origin;
5. To direct and supervise NAFIQAD Branches and subordinating units in FHS inspection and certification or non-compliance notifications;
6. To co-ordinate with the Department of Animal Health to trace back cause of non-compliance cases;
7. To direct NAFIQAD Branches and subordinating units to co-ordinate with concerned competent authorities to follow-up non-compliant cases;
8. To instruct National Agro-Forestry-Fisheries Quality Assurance Sub-Departments of provinces/cities under Central Authority or relevant units under Provincial Department of Agriculture and Rural Development to carry out inspection and supervision of imported products distributed in the local market.
9. To make annual or unexpected reports (on request) to the Minister on inspection of imported products of animal origin;
10. To set up and submit for approval the annual inspection plan to imported products on

assignment and respective estimated expenses for free-of-charge services.

Article 22. Department of Animal Health (DAH)

1. To co-ordinate with the National Agro-Forestry-Fisheries Quality Assurance Department to conduct inspection to FHS control systems of exporting countries;
2. To conduct on site inspection to FBOs of products of terrestrial animal origin in exporting countries;
3. To direct and supervise DAH Branches and subordinating units in FHS inspection and certification or non-compliance notifications;
4. To co-ordinate with the National Agro-Forestry-Fisheries Quality Assurance Department to trace back cause of non-compliance cases;
5. To co-ordinate with the National Agro-Forestry-Fisheries Quality Assurance Department to publish lists of FBOs approved to export products of animal origin into Vietnam; FBOs suspended to export into Vietnam; communicate notifications on non-compliance cases, request to investigate non-compliance causes and establish corrective actions to Competent Authorities of exporting countries;
6. To direct DAH Branches and subordinating units to co-ordinate with concerned competent authorities to follow-up non-compliant cases;
7. To instruct Sub-Departments of Animal Health of provinces/cities under Central Authority to carry out inspection and supervision of imported products distributed in the local market.
8. To provide the National Agro-Forestry-Fisheries Quality Assurance Department with the annual or unexpected reports (on request) on FHS inspection, certification and non-compliance notifications of imported products of animal origin for comprehensive reports to the Minister;
9. To set up and submit for approval the annual inspection plan to imported products on assignment and respective estimated expenses for free-of-charge services.

Article 23. Departments of Agriculture and Rural Development in provinces/cities under Central Authority

1. To direct Sub-Departments of Animal Health and Agro-Forestry-Fisheries Quality Assurance Sub-Departments in provinces/cities under Central Authority or authorized units to carry out inspection and supervision of imported products distributed in the local market in compliance with guidance of concerned Departments.
2. To direct the subordinating units to co-ordinate with other competent authorities in

handling non-compliant products (destroying, re-dispatching) and monitoring the handling.

3. To provide with the annual or unexpected reports (on request) on FHS inspection and supervision of imported products of terrestrial animal origin to the Department of Animal Health; of aquatic animal origin to the National Agro-Forestry-Fisheries Quality Assurance Department for comprehensive reports to the Minister;

4. To set up and submit for approval the annual inspection plan to imported products on assignment and respective estimated expense.

Article 24. Responsibilities of goods owner

1. To create good conditions for inspecting officers to carry out inspection, take samples for analysis and supervise products as prescribed.

2. To place products on the market only with health certificate issued by competent authorities.

3. To respect the decision on actions to non-compliance cases (destroying, re-dispatching) and be under the supervision of the competent bodies.

4. To provide with relevant dossiers and product samples for inspection and traceability.

5. To pay inspection fee, charge in compliance with the regulations in force by the Ministry of Finance and actual expenses in handling the non-compliant products.

Article 25. Responsibilities of inspection team in exporting countries

1. To carry out inspection of food hygiene and safety control system and food hygiene and safety conditions of food business operators in exporting countries in compliance with the decision on setting up an inspection team by the Ministry of Agriculture and Rural Development.

2. To co-ordinate with Competent authorities of exporting countries to implement inspection content.

3. To make inspection reports on FHS control system and FHS conditions of FBOs of products of animal origin in exporting countries to the Ministry of Agriculture and Rural Development within 15 days after the inspection mission in the exporting country.

Chapter VII
ENFORCEMENT

Article 26. Entry into force

This Circular shall come into force as of July 01, 2010.

Article 27. Amendment

During enforcement, all involved units submit reports on difficulties to the Minister for consideration and appropriate amendment.

FOR THE MINISTER
VICE-MINISTER
(signed and sealed)

Luong Le Phuong